THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.1351 OF 2007

Date:26-12-2007

Between:

Katragadda Gundarayudu … Petitioner

And

1.The Government of India,
rep.by its Under Secretary,
Ministry of Home Affairs,
New Delhi.
And another … Respondents

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O R D E R:

The writ petition is filed for a writ of mandamus, directing the respondents to consider the application submitted by the petitioner under the provisions of the Swatantra Sainik Samman Pension Scheme 1980 for granting Freedom Fighter's Pension within a time bound programme, declaring the inaction on the part of the respondents as arbitrary, illegal, violative of Art.14 of the Constitution of India and also the provisions of Swatantra Sainik Samman Pension Scheme 1980 and pass such other further orders.

2. Heard Sri Madhusudhana Reddy, representing Sri A.Sudershan Reddy, the counsel for petitioner and Sri A.Rajasekhara Reddy, the learned Assistant Solicitor General and the learned Government Pleader for revenue.

3. The present writ petitioner states that the petitioner is a freedom fighter fought against the Nizam Rule during 1947-48 period for the merger of Hyderabad State launched by the Hyderabad State Congress against Nizam Government and the petitioner worked under the Camp Jaggaiahpeta Camp in Krishna District under Dodda Narasiaha, Camp-in-charge. It is stated that the Government of India had formulated a scheme namely Swatantra Sainik Samman Pension Scheme 1980 extending certain benefits to the freedom fighters to grant pension etc. In accordance with the provisions of the Scheme, the petitioner submitted an application on 15.12.1997. Having

received the said application, the respondent and their officials have since promised to consider the application in proper perspective in accordance with the provisions of the said scheme, the petitioner had been anxiously waiting to receive a favourable communication. Further it is stated that the Committee constituted namely the Screening Committee has examined the applications of various freedom fighters during the years 1997, 1998 satisfied with their respective eligibility and recommended the applications for grant of pension. The petitioner expecting the sanction order from the respondent since 90% of his colleagues have received the proceedings on different dates stating that their claim cannot be admitted in view of the inconsistencies and deficiencies indicated therein. The petitioner also anxiously waiting to receive a communication from the respondent. Having waited sufficient time, since the petitioner could not get and reply, subsequently the petitioner had submitted a detailed catena of representations bringing out the fact to their notice besides requesting to consider his application in proper perspective and in the light of the provisions of the scheme. Though the petitioner had been anxiously waiting to receive any communication from the respondents, having no other alternative, the petitioner constrained to approach this Hon'ble Court though this writ petition. Further it is stated that the respondent being a statutory authority and a competent authority to take appropriate decision on the application submitted by him, being a freedom fighter, ought to have taken an appropriate decision and passed an appropriate order. The inaction on the part of the respondents is nothing but arbitrary, besides being capricious and colourable exercise of power. The respondent being a competent authority ought to have taken appropriate decision in respect of the persons who are freedom fighters and who lost everything during the

struggle period. The petitioner in the evening of over lives and if any delay is caused in taking a decision it would substantially jeopardize our interest. Non-consideration of the representation submitted by me immediately tantamount to denial of benefits, pension which cause hardship. Further it is stated that the petitioner is an aged person and suffered a lot during the Freedom Struggle and require financial assistance at this stage immediately. The respondents ought to have conducted enquiry as expeditiously as possible. The petitioner came to know that the Screening Committee has also accepted his claim and recommended to the competent authority to consider his application. The delay on the part of the respondents since substantially jeopardizig his right to live, the Fundamental Right guaranteed under Part III of the Constitution of India is also infringed. As all the attempts made by him to get his representations considered are proved to be futile, having no other alternative, the petitioner constrained to approach this Hon'ble court under Article 226 of the Constitution of India.

4. The writ petition is resisted by respondent No.1 by filing the counter-affidavit in detail. The background facts of the case had been narrated in detail commencing from paras 4 to 20. Several of the averments made therein are more or less genera in nature applicable to all claiming such Swatantra Sainik Samman Pension Scheme 1980. In reply to the averments made in paras 1 and 2 of the affidavit filed in support of the writ petition, it is stated that the petitioner had not submitted any documents along with the writ petition to support of the contentions made by him. It is further averred in para 22 that the relevant file No.112/4867/97-FF(HC) in respect of the petitioner's claim is not readily traceable on the records of this Ministry. Government of Andhra Pradesh has been requested on 14.9.2007 (Ex.R2) to provide the

copies of the application and supporting documents and all other relevant papers. The required documents are still awaited from the Government of Andhra Pradesh and in the absence thereof, it is not possible for this respondent ministry to give any comments on the contentions made in these paras. It is further stated that all persons who took part in freedom movement in some way or the other are not eligible for Samman Pension under the Swatantra Sainik Samman Pension Scheme 1980. Only specified category of freedom fighters who fulfill the conditions of the Scheme by furnishing the proof of claimed sufferings of the nature and in the manner specified in the Scheme itself are eligible for Samman Pension and evidentially criteria prescribed under this scheme.

5. The relief prayed for in the writ petition, as already referred to supra, is to consider the application submitted by the petitioner under the provisions of Swatanta Sainik Samman Pension Scheme 1980 for granting Freedom Fighers Pension. No doubt specific stand had been taken in the counter that unless the whole process and all the steps are taken, the question of considering the case of the petitioner would not arise.

6. In the facts and circumstances of the case, this court is of the considered opinion that the writ petition be disposed of directing the first respondent to consider the application of the petitioner submitted under the provisions of Swatantra Sainik Samman Pension Scheme 1980 for granting Freedom Fighters Pension in accordance with law, within a period of eight weeks from the date of receipt of this order.

7. The writ petition is disposed of accordingly. No order as to costs.

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P.S.NARAYANA,J

26th December, 2007.

PNV

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